

FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA) ADMINISTRATIVE ORDER

REVISED 8/26/20

What is the FFCRA?

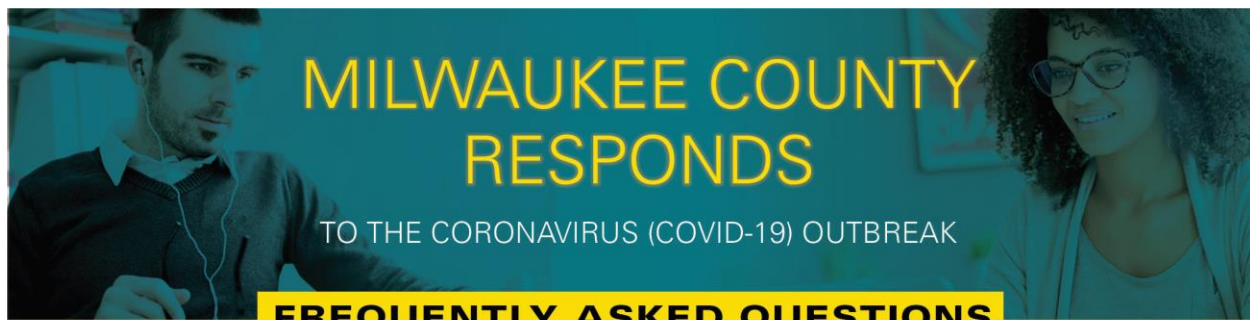
The Families First Coronavirus Response Act (FFCRA) requires certain employers to provide their employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor's (Department) Wage and Hour Division (WHD) administers and enforces the new law's paid leave requirements. These provisions will apply from the effective date through December 31, 2020. The FFCRA applies to Milwaukee County employees who have been employed for at least 30 days.

In general, what does the FFCRA provide employees?

Generally, FFCRA provides that covered employers must provide employees:

- Two weeks (up to 80 hours) of paid leave at the employee's regular rate of pay where the employee is unable to work [or telework] because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis;
or
- Two weeks (up to 80 hours) of paid leave at the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor.
- Up to an additional 10 weeks of paid expanded family and medical leave for childcare at two-thirds the employee's regular rate of pay where an employee is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

Important note: The FFCRA EPSL and the FMLA will overlap and run concurrently, as applicable. Please refer to the [FFCRA Administrative Order](#) for specific details.



Is Expanded Paid Sick Leave (EPSL) specifically for sick leave related to employees who have contracted or been exposed to COVID-19?

First remember this leave is limited if you are unable to work or telework for the qualifying reason. EPSL is broader than just sick leave for employees who have had close contact or contracted COVID-19. It may include caring for an individual who has COVID-19 or has been told to self-quarantine by a healthcare provider. It may or may not be in the household, but someone who the person is responsible for caring for e.g., a parent, an aunt or roommate. At Milwaukee County, we also require if you have symptoms or close contact with someone with symptoms, you must self-quarantine (see [Procedures for Responding to Confirmed COVID-19 Cases or Symptomatic Individuals, and Their Close Contacts](#)), and if you cannot telework*, you may use EPSL.

*The County doesn't want anyone coming into work ill, so only employees who can work while having symptoms or a COVID-19 diagnosis are able to telework. Regardless if you can telework or not, your priority should be to take care of yourself and get healthy again. If you aren't feeling well, you should not be working whether that is telework or not.

I was using EPSL because I am considered high risk and I cannot telework. What do I do under this policy?

Under the EPSL, if you have been advised by a healthcare provider to self-quarantine, based upon a classification of "high risk", you do fall into one of the categories included in the FFCRA Administrative Order due to being considered high risk. Under the EPSL you can use the two weeks of paid time. You will need to contact FMLASource and provide the requested medical information. Additional sources of accrued time might be applicable to cover needed time off if you exhaust time under the EPSL.

I have a scheduled vacation day. Can I use the EPSL bank of time?

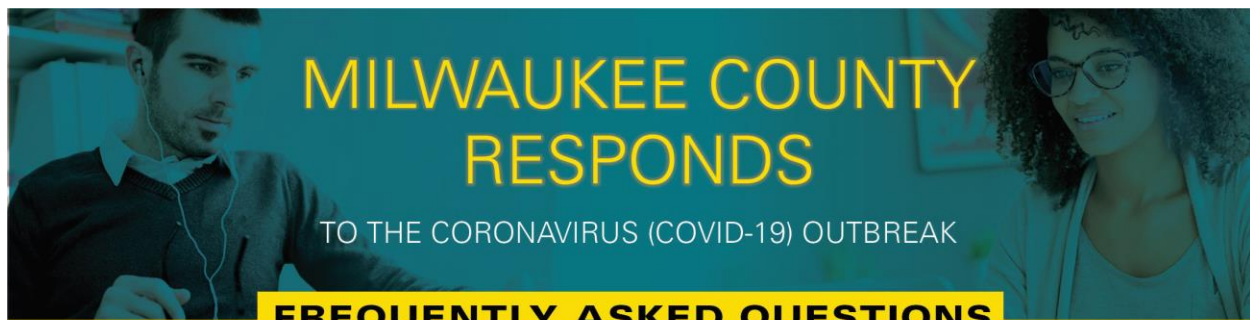
EPSL or FMLA for Childcare should not be used in place of a scheduled vacation day or other time off. If the time off is not COVID-19 related, you should be using your own accrued time.

How do I use EPSL for the first two weeks of FMLA for Childcare?

There is an "EPSL FMLA for Childcare" code that is for this specific circumstance included in the FFCRA Administrative Order.

What should I expect when I contact FMLASOURCE either by phone or on their website? What will they ask me?

FMLASource has instructions on their website to guide you through the process. You can contact them at (877) GO2-FMLA or www.fmlasource.com. Be sure you inform FMLASource you need a leave specific to Covid-19. For FMLA for Childcare you will need to submit documentation with the following information:



- Dates of closure
- Name of school or facility
- Dates you are requesting leave
- Child's name
- Confirm if you will use EPSL for the first two weeks that are unpaid

For FMLA for EPSL you will need to provide documentation from your healthcare provider for yourself or the person you are caring for due to COVID-19. If you are not able to see your healthcare provider or do not have a physician and will be unable to provide documentation within 15 days, you will be required to complete the Request to Postpone form to indicate the reason you cannot provide the requested documentation within the required timeframe. You will be required to provide documentation from the medical provider when you do obtain it. In some cases, you may need to self-certify your need for leave.

Does the FMLA for Childcare count towards my annual 12-week allotment of FMLA?

Yes, any time used for FMLA for Childcare will count towards your annual allotment of FMLA. The FMLA for Childcare is providing you with a different reason to use FMLA, not adding additional time.

Does the EPSL Bank count towards my annual 12-week allotment of FMLA?

It depends on whether the EPSL is taken for a FMLA qualifying condition that is approved by FMLASource. For example, if you use EPSL for the FMLA for Childcare and it is approved, it would count toward your 12-weeks of allowed FMLA.

Do I have to wait until I receive approval from FMLASource to enter the appropriate time outlined in the FFCRA order?

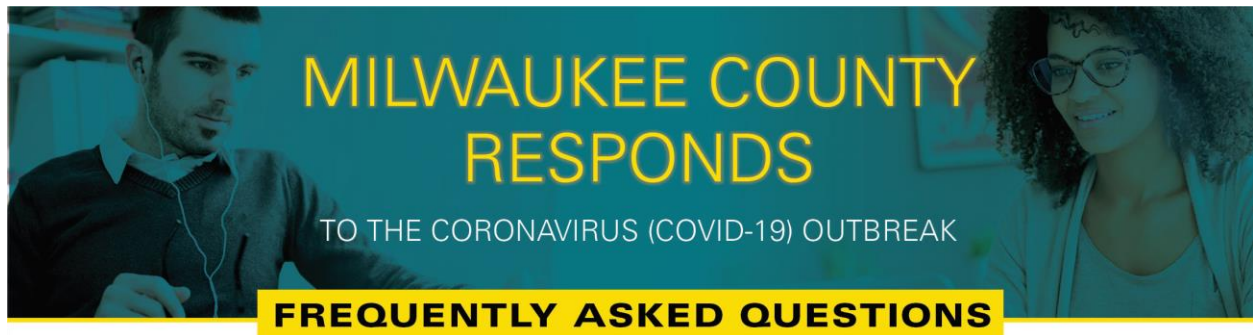
No, it is not necessary to wait for FMLASource to approve the request.

Can unemployment be used for the first two weeks of FMLA for Childcare?

You can apply, but Milwaukee County doesn't determine eligibility.

Can EPSL or FMLA for Childcare be used intermittently?

It depends. If you are using it for FMLA for Childcare, you can use it on an intermittent basis for any reason and must record your time in Dayforce accurately using the appropriate payroll codes included in the FFCRA Administrative Order. Otherwise, you may only use EPSL on an intermittent basis if you are able to telework.



I have already used FMLA this year for a different reason. Can I still take the full 12 weeks for FMLA for Childcare?

Unfortunately, you cannot. The FMLA for Childcare does not extend the annual 12 weeks you are given for FMLA. The FMLA for Childcare is providing you with a different reason to use FMLA, not adding additional time.

How long do I have access to FFCRA?

This policy is in effect until December 31, 2020.

I feel a coworker is abusing these policies, where can I report this?

If you are comfortable, you can talk with your supervisor about the issue. If you would prefer to remain anonymous, you can reach out to the Employee Relations Hotline at 414-278-2000.

What happens if I used SPL time while it was available but terminate my employment with Milwaukee County?

If you terminate your employment prior to October 1, 2020, and have used time from the SPL Bank, you will be subject to a one-to-one day reduction in any accrued time that would normally be paid out at the separation pursuant to Milwaukee County ordinance sec. 17.17.

If I resign can I use this policy to extend my time?

No, if you resign during this time you are expected to work up until the last day that is designated by you or your supervisor.

Are taxes different for FMLA for Childcare?

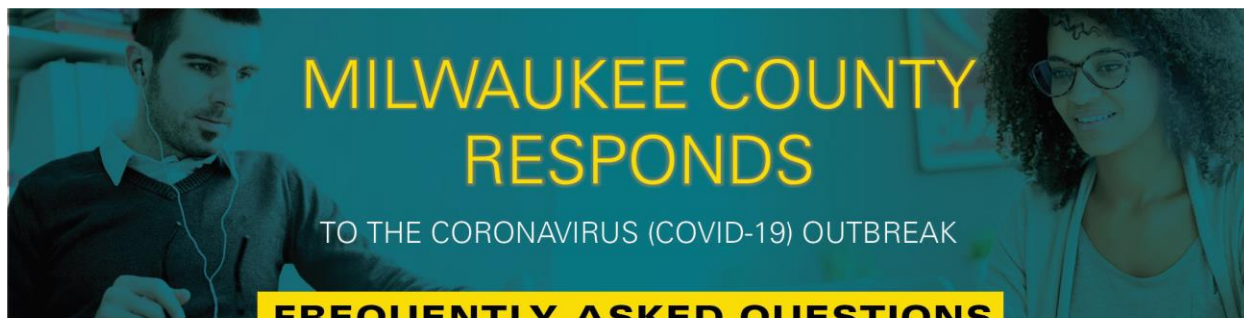
The FMLA for Childcare is still subject to federal and state holdings. You will be taxed according to the federal IRS tax tables that are in place for 2020.

If I utilize these policies, how are my pension and benefits affected?

You will continue to have access to the health benefits and be expected to pay the premiums. Your contribution to the pension benefit will continue.

If my position is one that has been exempted from FMLA for Childcare, what time is available for me to use?

Exempted departments/divisions from the FMLA for Childcare time have the option of whether they will choose to give the FMLA for Childcare time option to their employees or not, with the understanding that they can change their decision at any time to meet operational needs. Department leaders and managers who have been granted an exemption should produce and communicate how this will work for their workforce. If they are choosing to use the exemption and not offer the FMLA for Childcare benefit, employees with urgent childcare needs should talk to their managers about using other personal time off banks for their childcare needs.



Am I required to use my own accrued time for FMLA for Childcare after the first two weeks?

Yes, it is required that you use any accrued vacation, personal time, holiday, or overtime concurrently with FMLA for Childcare, paid out at 100% of your regular rate of pay. After exhausting those available types of paid leave, you can choose to cover any remaining approved FMLA for Childcare time by using your accrued sick time (paid out at 100% of your regular rate of pay) or be paid as provided in the FFCRA at 66% of your regular rate of pay. You cannot use partial sick time to supplement the 66% of regular pay.

I understand that after the first two weeks FMLA for Childcare is paid out at 66% of my salary. Can I use my other accrued paid time to supplement, so I receive 100% pay?

No, consistent with guidance issued by the Department of Labor for the FFCRA, the County requires that the remaining 10 weeks of FMLA for Childcare run concurrently with other paid leave currently available to its employees, including vacation, personal, holiday, and accrued overtime, but not including sick leave (unless the employee elects to use their sick leave). This time will be paid out at 100 percent of the employee's regular rate of pay. After exhausting available leave, any remaining time during the 10 weeks will be paid at 66 percent of the employee's regular rate of pay.

I used two weeks of FMLA for Childcare earlier in April. I now need to apply for FMLA for Childcare in September. Are the first two weeks paid?

No, the paid time off for a childcare leave is considered all the same leave, even if it is needed on separate occasions. Once the two weeks have been paid, it does not "reset" when additional leave is needed.

Due to Covid-19 concerns, my child is starting off the school year virtually. Can I use this policy to take a leave?

Yes, according to the Department of Labor, a virtual school opening is considered a school closure.